Testimony: David Bergeron
Before the House Committee on Resources
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My name is David Bergeron. I am Executive Director of the Massachusetts Fishermen's Partnership (MFP). The MFP is an umbrella organization for 18 commercial fishing organizations representing all gear and geographic sectors of the Massachusetts fishing industry. Our members are:

Boston Harbor Lobstermen's Cooperative
Cape Cod Commercial Hook Fishermen's Association
Commercial Anglers' Association
General Category Tuna Association
Gloucester Fishermen's Wives Association
Gloucester Fishermen's Association
Marshfield Commercial Fishermen's Association
Massachusetts Commercial Fishermen's Association
Massachusetts Bay Ground Fishermen's Association
Massachusetts Lobstermen's Association
New Bedford Seafood Coalition
New England Fish Exchange
Northeast Seafood Coalition
North Shore Community Tuna Association
Pigeon Cove Fishermen's Co-Op
Plymouth Lobstermen's Association
Provincetown Fishermen's Association
South Shore Lobstermen's Association

The MFP was created to promote the common interests and economic viability of commercial fishermen and fishing families. The MFP is sponsor of the Fishing Partnership Health Plan, which provides comprehensive healthcare coverage for more than 2000 members in the fishing community. The MFP also runs a successful collaborative research program that addresses topics that include social science inquiries, seafloor mapping and habitat characterization, species studies and selective gear development.

Thank you for the opportunity to offer testimony concerning reauthorization of the Magnuson-Stevens Act and particularly H.R. 5018 and H.R. 4940. There are many provisions in both bills that deserve serious consideration and which we hope will be included in the final version of reauthorization of the Magnuson-Stevens Act. H.R.5018 includes several proposals that we support with regard to diminished fisheries, flexibility in rebuilding timeframes, analysis of cumulative social and economic impacts, reconciliation of the National Marine Sanctuaries Act with the Magnuson-Stevens Act, and other matters discussed below. H.R.4940 also includes some very important proposals concerning healthcare for fishermen, safety, flexibility of rebuilding strategies and timeframes, and collaborative research.

It is wise that the House of Representatives and Congress is moving towards reauthorization of the Magnuson-Stevens Act this year. Medical research continues to affirm the importance of seafood in a healthful diet. While recreational fishing provides important economic and social benefits, it is the commercial fisherman who provides high quality and healthful protein for all American citizens. It is critical that the health and abundance of our fishery resources be safeguarded. It is equally important that the tens of thousands of men and women who go to sea and the people employed in the businesses and industries on shore that support our fishermen are recognized and supported for what they contribute to the national interest. These are the people who provide us with some of our best understanding of the marine environment and the rich abundance of the sea.

Healthcare for Fishing Communities

The MFP has a long-standing interest in fishing community healthcare issues and is sponsor of the Fishing Partnership Health Plan which provides more than 2,000 fishing family members with comprehensive high-quality coverage. Our work in connection with the Fishing Partnership Health Plan gives us a unique view into the social dimensions of fishing community life. As such, we wholeheartedly endorse Section 4(e) of H.R.4940 “Fishing Industry Health Care Coverage Demonstration Program” and request that this entire section be included in the final version of Magnuson-Stevens reauthorization.

Very closely related to our interest in fishermen’s health is our concern for fishermen’s safety. We support Section 6 of H.R.4940 “Fishing Safety” and especially endorse its provisions to provide resources for safety training and its requirement that equal emphasis be given in management to fishermen’s safety at sea as is given to other National Standards. A NOAA funded project we are currently conducting seeks to p romote a culture of safety at sea by building on successful safety training workshops in New Bedford and exploring the potential for developing incentives such as lowering the costs of safety equipment and/or insurance in part through active participation in safety training.

Collaborative Research

The MFP operates a successful collaborative research program that addresses a number of research topics relevant to the development and definition of ecosystem based approaches to management. We generally support H.R. 5018’s Section 6 “Ecosystem-Based Fishery Management”; however, there needs to be more specific language to describe how to “incorporate broad stake holder participation.” H.R.4940 provides concrete examples of how this may be accomplished in Section 5 “Improvements in Fishery Science and Research” and Section 12 “Fishery Science Education Program.”

The MFP has developed a special expertise with regard to social science research through a number of collaborative research projects with researchers from MIT, Rutgers University, and Harvard University. We began this work five years ago with the specific goal of preparing to make recommendations to Congress to improve the quality and usefulness of fisheries social science research. One of our most critical findings is that social science analyses in fisheries must not be limited to impacts of regulations but must be expanded to assess the social dimensions of the science and management processes as well.

A. Analyzing the Social Dimensions to Science & Management

Effective management of fisheries demands institutionalized collaboration among fishermen, other community members, social and natural scientists as well as managers at every point, from research through decision-making.

In its introductory “findings,” the Magnuson-Stevens Act stresses that “the collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.” The route chosen was “ (5) to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States.” Despite these participatory goals, fisheries management has achieved the reputation of “top-down” management among many of its stakeholders. Others, however, accuse the Councils of being swayed by too much participation of stakeholders. Measurement and monitoring of the involvement and empowerment of both individuals and organizations could be incorporated into the analysis of the success/failure of management.

The description of the social organization and characteristics of interaction among research and fisheries management institutions and the people who participate through them could be viewed as important social "indicators" in management. Effective outcomes would be defined and monitored by measurable social indicators. That there are fishermen and scientists working together on projects does not mean that the full potential of that collaboration is being realized. Deliberate analysis of the human ecology of collaborative fisheries research is an important step towards understanding what is necessary for success in such research. Meaningful collaboration among scientists and fishermen and their respective organizations is an important contributor to the development of individual and group “capabilities” and expertise and thus

provides the social and human capital necessary for effective research and management of ecosystems.

Section 5(d), (e) and (f) of H.R.4940 provides the best model on how to build upon progress already made in promoting collaborative research and also includes resources for social science collaborative research that would be available to analyze the process and social structure of successful collaborative research and how it can be made more applicable and influential to management.

B. Community Confidence in Scientific Research

Our social science research and experience in general with collaborative research projects is beginning to awaken an appreciation of the need to better understand the meaning and social indicators of "collaboration" in connection with scientific research. There is broad recognition of the need for scientists and fishermen to work more closely together through collaborative research, and Congress has invested in this idea. Social sciences need to be applied to learn how to assess and analyze scientific research that produces results that obtain high levels of confidence and as such become implemented more readily in management.

The major complaint we hear is that collaborative research results are not used in management. The reasons for this may not be as obvious as some may believe. It is not simply a question as to whether or not the science is good, the review was independent, or the information was relevant. There is more to it, and we need to understand it.

Research done by the Ecosystem Management Initiative of the University of Michigan School of Natural Resources and Environment examined the need for collaboration for effective ecosystem management. The group has also focused on "what enables people to work together to address resource issues, resolve conflicts, and build partnerships." (http://www.snre.umich.edu/ecomgt/lessons/index.htm)

The accuracy of natural science research and monitoring results (e.g., fisheries assessments) performed without collaboration is consistently questioned by fishing industry participants. While collaborative projects do not always end with consensus among the collaborators, those who participate in these projects have opportunities to share information and educate each other. Research conducted at the University of New Hampshire has found that collaborative research projects have fostered a greater appreciation among both fishermen and scientists for each other and the knowledge each possesses, as well as the information gained over the course of the projects.

A symposium at the American Fisheries Society Annual Meeting in Anchorage, Alaska (September 2005), "Partnerships for a Common Purpose: Cooperative Fisheries Research and Management", pointed out that "it may be easier to address ecosystem-based management priorities with cooperative research because of the diverse skills of the many individuals involved and the varied perspectives provided by the many stakeholders included in the process." (*Fisheries*, 31:3:132 (March 2006)

C. Cumulative Social & Economic Impacts

In working with fishing community participants through our social science collaborative research, we have learned that the social science needs of fishing communities are not well served by the conventional ways of thinking about socio-economic impacts. Socio-economic impacts of future actions are difficult to measure, but data can be collected and used to scientifically measure the impacts of past management. Current law does not require such an historic perspective. Our research has found this lack of historic perspective to be a serious problem that was noted by every fishing community we studied across the region. These effects have been well documented in our reports linked from our website, http://www.mass-fish.org/communit.htm. Section 10 of H.R. 5018 remedies this problem by calling for the analysis of the cumulative social and economic impacts of regulations on communities. Analysis of the cumulative impacts of past regulations on communities over time will greatly improve the Councils' abilities to estimate the impacts of options for future actions under consideration. This will also greatly improve the Councils' abilities to be more equitable in their decision-making.

D. Fishing Industry Infrastructures

Another largely unmet need in fishing communities is the inventory and social science analysis of fishing industry infrastructures and businesses. This information is not only needed to assist Fishery Councils in their decision-making but it is also badly needed by local and state governments and planning agencies in making zoning decisions and economic development plans. Lacking good social and economic information

about the fishing business and industry infrastructures places communities at a tremendous disadvantage when it comes time to gauge impacts and to plan for change. This in turn contributes to fear and concerns that make it more difficult for stakeholders to cope and participate in the political process. The MFP has found that it is effective to combine socio-economic analysis of fisheries regulations with helping communities like Gloucester better understand their waterfronts and how to make important long-term plans for their ports. (http://www.mass-fish.org/press%20releases%20current/gloucester_study.htm) The City of New Bedford, for example, is preparing to develop a new harbor plan and would greatly benefit from a thorough inventory and detailed analysis of its fishing industry physical, business, and services infrastructures. The funding specifically set aside in H.R. 5018's Section 4(d) for socio-economic data collection activities is very important and the use of these funds should consider how to better understand cumulative impacts of fisheries regulations as well as the fishing industry's physical, business, and essential services infrastructures.

It would be far preferable, however, to provide this funding for social science data collection to independent research institutions separate from the Councils and NOAA Fisheries. Social research conducted separately from the Councils will gain quicker confidence and cooperation from fishing community participants who will be more willing to share confidential information and collaborate with independent social scientists.

Diminished Fisheries

Section 11 "Diminished Fisheries" of H.R. 5018 provides a very useful new approach to defining overfishing and diminished stocks. The substitution of the term "diminished" to replace "overfished" provides latitude to better describe conditions of fish stocks. The definition of "diminished" "with respect to a stock of fish, that the stock is of a size that is below the natural range of fluctuation associated with the production of maximum sustainable yield" represents a solution to a vexing dilemma embedded in current law. Current law does not recognize "natural fluctuation" in the determination of a stock's maximum biomass target and requires that all stocks be managed to their maximum levels simultaneously. This defies reason and biological reality. It is not good government to enshrine a goal in the law that in practice cannot be achieved in the real world. Section 11 of H.R. 5018 offers an opportunity to remedy this flaw in current law. However, we recommend that the approach contained in this definition of "diminished" be applied consistently to the definitions of "overfishing" and of "acceptable biological catch".

We suggest consideration of a definition of "overfishing" such as "a rate or level of fishing mortality that jeopardizes the capacity of a fishery to maintain the stock of fish or a multispecies complex at a size that is within the natural range of fluctuation associated with production of maximum sustainable yield." The intent here is to recognize that the abundance of fish stocks fluctuate based upon natural factors and the definition of "overfishing" be linked to this reality.

Research of the ecosystem structure and function of multispecies fisheries can help us better understand natural fluctuations in populations of individual species within aggregate multispecies complexes. Government scientists have noted that aggregate multispecies stocks in new England have been relatively stable over the past century while abundance of individual stocks within the complex have fluctuated widely. An improved understanding of this aggregate versus individual species issue may help managers better assess the benefits and risks of designing ecosystem-based management measures.

Section 11 also provides for the distinction between stocks that are diminished "as a result of fishing" and stocks that are diminished "as a result of factors other than fishing" such as poor water quality and abnormal water temperatures. This is very important, especially in cases where species are not fished at all.

Section 11 provides for flexibility in the 10-year rebuilding timeframe when "the cause of the fishery decline is outside the jurisdiction of the Council or the rebuilding program cannot be effective only by limiting fishing activities" or "the Secretary makes substantial changes to the rebuilding targets." We have recently seen our rebuilding targets tripled in New England. This in no way limits the responsibility to manage fishing mortality, but it enables non-fishing factors to be considered.

Harvest Level Caps

Closely related to the designations of "diminished" and "overfishing" are the provisions in Section 3 of H.R. 5018 to direct fisheries managers to establish harvest level caps. Various proposals on how to approach this matter have been made, but H.R. 5018 proposes a compromise with some promise.

Section 3 calls for “a mechanism for specifying the total allowable catch or another annual catch limit” that “does not exceed the acceptable biological catch level recommended by the scientific and statistical committee of the Councils.”

Further, the Council must “adopt a total allowable catch limit or other annual harvest effort control limit for each of the fisheries for which such a limit can be established, after considering the recommendation of the scientific and statistical committee of the Council, which shall not exceed the recommendation for the acceptable biological catch as recommended by such scientific and statistical committee.”

H.R. 5018 does not, however, define “acceptable biological catch.” We propose a definition that is consistent with the definition already included in Section 11 for “diminished” stocks. A suggestion could be phrased along the lines as follows: “Acceptable biological catch means an amount of fish that can be harvested that allows a stock of fish to remain at or be rebuilt within the allowed period of time to a size that is within the natural range of fluctuation associated with the production of maximum sustainable yield.”

The intent is to make it as clear as possible that “maximum” is a dynamic amount that fluctuates and regulations may allow fishing to continue provided the stock will be rebuilt by the specified deadline. In some cases, diminished stocks could be rebuilt within the required time period even if overfishing is phased out gradually rather than ended immediately. If a Council chooses to end overfishing immediately when the target could be achieved within the required time period by phasing out overfishing, the Council should be required to provide a cost/benefit analysis to justify the quicker rebuilding schedule.

Science & Statistical Committees

The science and statistical committees must be transparent in how they operate. Moreover, the science and statistical committees would garner greater community confidence if membership included independent experts who are not officials or employees of the Federal Government. Confidence would also greatly increase if information from collaborative research were utilized that has been conducted by high quality collaborations that could be verified through social science assessments of the research process.

Independent Peer Review

Independent peer review of scientific information being employed in management is another way to increase confidence in the process. Reviewers need to be truly independent. Section 5(c) of H.R.4940 provides the best language to ensure transparency by specifying that reviewers are not all employees of the Federal Government and “may include persons who are employed by the fishing industry.”

Qualified experts who are truly independent of NOAA to participate on the science and statistical committees and the independent peer review panels will be difficult to find. To help address this shortage, it is necessary for some funding for fisheries and ocean research and education to be appropriated separately from NOAA Fisheries. H.R.4940 Section 12 would establish a Fishery Science Education Program. Such a program would go a long way toward developing the next generation of fisheries and oceans researchers to work for NOAA Fisheries and other research institutions committed to fisheries and oceans research.

Review of Fishery Regulations in National Marine Sanctuaries

Section 10(d) of H.R.5018 addresses a very sensitive ambiguity in current law concerning the authority of National Marine Sanctuaries Act provisions that permit the regulation of fisheries within the boundaries of national marine sanctuaries by the National Marine Sanctuaries Program rather than NOAA Fisheries and the Fishery Management Councils. This ambiguity has caused a significant amount of confusion in New England.

Some assert that the Stellwagen Bank National Marine Sanctuary must be managed to a higher standard than that which is provided for in the Magnuson-Stevens Act. The National Marine Sanctuaries Act sets a goal of protecting resources while the Magnuson-Stevens Act establishes a different goal of achieving sustainable fisheries. H.R.5018 clarifies this issue by plainly stating that any proposed regulation under the National Marine Sanctuaries Act concerning fish or fish habitat “shall not take effect unless the Secretary certifies that the proposed regulation – (A) meets the national standards under section 301(a); and (B) is consistent with other provisions of this Act.” This language makes it clear that the Magnuson-Stevens Act goal of achieving sustainable fisheries is the goal that applies to any fisheries management actions by any

agency in a national marine sanctuary. This is an improvement over current law that contains the apparent conflict of goals between the two statutes.

Thank you for the opportunity to testify today.

David Bergeron